

**BUTTE-SILVER BOW LOCAL GOVERNMENT  
STUDY COMMISSION**

**Minutes of the Public Hearing**

**April 6, 2006**

**Butte-Silver Bow Courthouse, Third Floor Council Chambers**

***Meeting Date:*** April 6, 2006

***Time:*** 6:30 p.m.

***Place:*** Butte-Silver Bow Courthouse, First Floor Conference Room

***Call to Order:*** Chairman Bob Worley brought the meeting to order at 5:45 p.m. and called roll with the following results:

***Members Present:*** Tony Bonney, Ristene Hall, Wayne Harper, Dave Palmer, Meg Sharp, Cindi Shaw, Northey Tretheway, Bob Worley and Shag Miller

***Excused Absences:*** Ron Rowling

Bob Worley commented that he tried to contact Bob McCarthy today but Bob McCarthy is in Helena for the next two days.

***Approval of Minutes:*** Bob Worley asked if everyone had a chance to review the minutes from March 30<sup>th</sup> and asked if there were any changes or deletions that needed to be made. Bob Worley entertained a motion for the approval of March 30, 2006 minutes. Shag Miller motioned and seconded for the approval of the minutes from March 30, 2006. All were in favor and the motion carried.

***Comments from Ron Rowling:*** None

***Citizen Comments:*** None.

Bob Worley commented that he and Northey Tretheway put together a PowerPoint presentation last night that covered Charter provisions. Bob Worley hoped the PowerPoint would help everyone know where they stood in regard to the existing charter with proposed changes versus a refined charter.

The PowerPoint presentation was titled, Are We Here To Guide or Govern?

The first slide covered the definition of the charter which states, a document outlining the principles, functions and organizations of a corporate body, a constitution or city charter. A grant or guarantee of rights, powers and privileges from authority or agency of a state or country. A written instrument that creates and defines the powers and privileges of a city, educational institution or corporation. A charter is a document bestowing certain rights on a town, city, university, land or institution. The charter is a legal binding document incorporating an organization or institution and specifying its purpose, remit or bylaws.

Self-government charters-the legislature shall provide procedures permitting the local government unit or combination of government units to frame, adopt, amend or revise the self-government charter with the approval of an authority of those voting on the question. The procedure shall not require approval of the charter by a legislative body. If the legislature does not provide such procedures by July 1, 1975 then they may be established by election either initiated by petition at the local government unit or combination of units or called by the governing body of the local government unit or combination of units.

Charter Provisions: establishing executive, legislative and administrative structure and organization are superior to statutory provisions.

Powers: self-government powers of a local government unit adopting a self-government charter may exercise any power not prohibited by this constitution, law or charter. This grant of self-government power may be extended to the other local government units through optional forms of government provided for in Section 3.

Northey Tretheway stated the information comes right from MCA.

Voter Review: The legislature shall require an election in each local government to determine whether local government will undertake a review procedure. Once every ten years after the first election, approval by majority of those voting in the decennial general election on the question of undertaking a local government review is necessary to mandate the election of a local government Study Commission. The Study Commission member shall be elected during any regular scheduled election in local governments mandating the election.

Legislative Body: The charter shall provide for an elected legislative body called Commission of Council or shall provide for a legal body comprised of all the qualified electors. For elected legislative bodies, the charter shall specify the number of members thereof, their term of office, election on a partisan or non-partisan basis, the grounds for their removal and the method for filling vacancies. The charter shall provide for the nomination and election of commissions at large by districts in which candidates must reside in which are proportioned population by a combination of districts in candidates must reside in which are proportioned by population and at large or elected at large and nominated by a plan of nomination that may not preclude the possibility of the majority of the electors nominating candidates for the majority of the season of commission for persons residing in the district or districts or where majority of the electors reside.

Officials and Personnel: The charter form of government shall have such officers, departments, boards, commissions and agencies as are established in the charter by local ordinance or required by state law.

Other Charter Provisions: The charter may establish other legislative, administrative and organizational structures. The charter may contain prohibitions on the exercise and power by a unit of local government.

Amendment of Charter: A charter may be amended only as provided by state law. Amendment to a self-government charter or an adopted alternative form of government may only be made by submitting a question of the amendment to the electors of the local government. To be effective, the proposed amendment must receive an affirmative vote on the majority of the electors voting on the question. An amendment approved by the electors becomes effective on the first day of the local government fiscal year following the fiscal year of approval unless the question submitted to the electors provides otherwise.

Cindi Shaw asked if it has to be done through the electors?

Bob Worley replied there are two more parts to the section he is covering that will answer her question.

An amendment to a self-government charter or an adopted alternative form of government may be proposed by initiative, petition by 15% of the electors, register at the last general election of local government or by ordinance enacted by the governing body. The question of amendment of a charter or an adopted alternative form of government must be submitted to the electors at the next regular or primary election. The local government by ordinance may provide procedures for the submission and verification of initiative of petitions.

Cindi Shaw asked if Rick Foote's comment at the Public Hearing was true that charter amendments could be done without the vote of the public. Bob Worley replied you have to bring it to the voters.

Purpose of the Study Commission-to study the existing form and powers of local government and procedures for the delivery of local government services and compare them with other forms available under the laws of the state.

Commission Powers: The Study Commission may employ and fix the compensation and duties of necessary staff. State and municipal county officers and employees at the request of the Study Commission and with the consent of the employing agency may be granted leave with or without pay from their agency to serve as consultants to the Study Commission. If leave with pay is granted, they may receive no other compensation from the Study Commission except mileage and per diem. The Study Commission may contract and cooperate with other agencies, public or private as it considers necessary for assistance in carrying out the purposes for which the commission was established. Upon request of the Chairman of the Study Commission, officers and employees of state agencies, counties, and other local governments must furnish to the commission any information that is necessary of carrying out the commission's function.

The Study Commission may establish advisory boards and committees including upon them persons who are not members of the Study Commission, retain consultants and do any other act consistent with and reasonably required to perform these functions.

Scope of Study Commission Recommendations: A Study Commission examining the government of a county may recommend amendments to the existing plan of government, any plan of government authorized by Title 7, chapter 3, parts 1 through 6, draft a charter, recommend municipal-county consolidation or amendments to an existing consolidation. In cooperation with a study commission in an adjoining county, recommend county merger or submit no recommendation.

In addition, a county Study Commission may recommend consolidation or transfer of services in cooperation with another county or municipal Study Commission.

Cindi Shaw asked where the Community Enrichment and Superfund Coordinator would fall into the scope of the things they could recommend?

Bob Worley replied Title 7 refers to parts 1-6 on the different ways you could govern through the State of Montana.

Continuation of Scope of Study Commission Recommendations: A Study Commission examining the government of a municipality may recommend amendments to the existing plan of government, any plan of government authorized by Title 7, chapter 3, parts 1 through 6, draft a charter, recommend municipal-county consolidation, recommend disincorporation, or submit no recommendation.

In addition to the items in subsection 2, a municipal Study Commission may recommend consolidation or transfer of services in cooperation with another municipal or county Study Commission.

Bob Worley asked are they there to guide or govern? In his opinion, they are governing with the existing charter. Bob Worley hoped they could all see from the presentation that with the existing charter they are governing and being short sided. He commented that the major issues discussed since they have started their commission are: animal control, volunteer-paid fire departments...Bob Worley commented that he visited with Jeff Miller and Bob McCarthy. Bob McCarthy did not feel it was necessary to make changes to Section 7.03. Bob Worley commented he spoke with Dave Kneebone on Friday. Bob Worley explained where Dave's concern was is the volunteer firemen feel they should be able to set and vote on their own budgets within the volunteer departments. Our charter states that volunteer and paid fire departments be controlled by a Fire Coordinator, who is Jeff Miller. Bob Worley commented BSB has more equipment in Butte, 37 units, than in Spokane. If there was any place where they could be short, every 150 firemen do not have a radio but not all 150 go out to the fire. The volunteer firemen have a retirement plan and worker's compensation insurance. BSB takes care of the buildings and maintain their trucks and equipment. Jeff Miller explained what the volunteer firemen are threatening is a lawsuit against BSB because they want the authority to budget for their own fire department. Bob Worley commented one of the largest volunteer fire departments is Racetrack because of everything they cover. They have the garage area for the Berkley Pit, schools, rest homes and so forth. Other volunteer fire departments

would probably have to close because they would not have enough money to maintain what they have to maintain now. Bob Worley commented when he spoke with Dave Kneebone on Friday night, after he had told him about his conversation with Bob McCarthy, Dave replied, lets see how it plays out in court.

Bob Worley mentioned “at will” employment as one of the topics that has come up in their meetings. They have been battling with it since last January when two BSB employees were let go. They went outside of local government and got private consultation from a local attorney that primed wording that would work within the existing charter.

Bob Worley discussed the Clerk and Recorder’s Office and the Land Records Office. Bob Worley mentioned the conflicts of opinion between the two that occurred at the Public Hearing. Bob Worley stated things of that nature do not belong in the charter. Those are they type of things that should be legislated by the commission.

Bob Worley mentioned Central Purchasing, which currently exists in the charter.

Bob Worley commented they are aware that Information Technology is lacking but again thought that should be legislative authority. Bob Worley stated the Council of Commissioners should be the policy-making body of BSB.

Bob Worley replied that they have wrestled with the existing charter trying to get the right and proper wording that would solve everything. Bob Worley commented that the existing charter probably hinders government more than what it should. If they leave the authority to the Council of Commissioners to take care of those type of things in a refined charter or simplified charter that they have been proposing and do Butte a real favor in moving forward.

Cindi Shaw replied as an example, they did not do what the voters had asked them even though it was voted on by the people and in the charter. Cindi Shaw asked how are you going to hold it over their heads to do it when it is not in the charter?

Bob Worley replied they are going to question them as a citizen, which should have already been done.

Shag Miller likes the new draft of the charter but disagrees with Bob Worley regarding the existing charter. Shag Miller believes the existing charter has worked for BSB and given BSB the best form of government in the State of Montana. Shag Miller animal control has been a function of Public Works and it has not worked according to the people. Shag commented the court will decide on the volunteer fire department issue. The issue of “at will employment”, the law changed the language in the existing charter. Central purchasing is in the charter but they don’t it. Information Technology is an add-on of the changes that have been made over the last ten years in technology so you have to accommodate. Shag is unsure of going to voters with a whole new charter when fine tuning the existing charter is all that is needed. Shag stated the Constitution is probably

the most wonderful document that was ever written to govern any type of government in the world. It governs by amendment. Shag thought there should be a combination of guide and govern document.

Cindi Shaw confirmed that the refined charter that is being considered was taken from the City of Missoula. Cindi asked if the departments they have been discussing would go to ordinance?

Cindi Shaw told someone today if she were voted as a commissioner and having been on the Study Commission, she would make sure whatever the voters approve, she would be a watchdog and see that it gets done.

Tony Bonney agreed with Shag Miller. He thought the voters would be scared if they said to them, here is the new improved simplified charter. Tony commented look in the past what has happened when previous Study Commission members tried to take away an elected position. The first thing the public says is they had their rights taken away.

Tony Bonney commented if they go to the public with the concept of a brand-new charter, they are going to wonder what has been left out or what has been added. 90% of the public does not know what the charter says.

Ristene Hall commented even if the public knew exactly what the charter stated and picks the refined charter up to read it, the first thing they will read is the Preamble. The Preamble in the refined charter they received does not sound like Butte.

Bob Worley replied that he is aware of that and the refined charter they have all received is just an example.

Northey Tretheway replied that the refined charter they are reviewing is just a concept. Northey asked what should the Council of Commissioners be focusing on? Should they be focusing on dogs? Northey asked do we need a managed form of government or does BSB need more or less commissioners? Northey asked do they need something that really is a higher level for the ability of Butte to focus on things things that will propel Butte forward? Northey thought that is what their duty is and what the charter should serve. Northey stated they are still back in 1976 when they consolidated and the items are still in the existing charter. Do they still apply? Northey stated they have spent a lot of time talking about things in the charter. Northey asked how much have they talked about the future of Butte? If the charter is guiding enough, then the Commissioners, themselves won't have to go back to the charter and ask if they can/cannot do something. They need to set the policies for Butte to move forward and be accountable for that, not the charter.

Bob Worley replied in regard to Shag's comment regarding the refined charter. Bob stated with the refined charter they would not be asking to change the type of government in BSB. BSB will still be a chartered government with self-governing powers. The difference is things would be done through the commissioners by

ordinance. All the existing ordinances that are on the books today go forward with a new type of charter. The refined charter would give some freedom to the commissioners.

Dave Palmer is against the refined charter for the simple fact that you have to look forward on where Butte is going to be in 10 years or so. Dave believes Butte is going to grow rapidly and there are going to be a lot of outsiders coming in. If you get the wrong kind of people in and get a larger group on the council, if there is no basic guiding document that has to be changed by the voters then you could get a group of radicals and they could change a lot for the worse. Dave thought the existing charter would protect Butte better.

Northey Tretheway asked if Missoula was more susceptible of neo-nazi's coming in?

Dave Palmer replied they are with environmentalists.

Ristene Hall agreed with Dave.

Northey asked if the charter was helping Butte or hindering it. It is not allowing the flexibility for Butte to move forward. Northey felt the charter has its past merits in deciding the form and type of government we have not so much in whether they are discussing "at will employment" or the IT Department. Those are things that are best left for the people who are operating government. If we don't like how they are operating then vote them out of there.

Tony Bonney stated whether you spend \$43,000.00 or \$430,000.00 and give them something that will help them. The first thing they are going to do with the refined charter is ask where is the dogcatcher clause? It all comes down to that the public not taking the time to get educated about the charter and the proposed changes.

Dave Palmer mentioned in the past there was a new Chief Executive and new Council of Commissioners that did not have knowledge of what county government was like. If it was not for the charter at that time with guiding principles telling them what they could and could not do, it could have been a real disaster.

Northey Tretheway asked if they are seeing that in Missoula, Helena, Bozeman or Great Falls? Why would they be more susceptible to that?

Shag Miller stated BSB has a better government?

Northey Tretheway replied because BSB's government is consolidated, not because it is written in the charter.

Ristene Hall asked if the people turned down the simple charter would they go back to the existing charter without changes?

Bob Worley replied they would. Bob Worley explained the refined charter is not going to take anything away from the elected officials.

Cindi Shaw asked where did the refined charter state the number of commissioners? Bob Worley replied in Article II. Cindi Shaw asked about the suggestion of 6 districts having two commissioners in each district. She thought they had already voted on it and it was done.

Wayne Harper thought they could bring anything up again and revote on it. He thought they should follow whatever guidance they provided in their vote. If somebody wants to bring up a issue that has already been voted, it should be done by motion to readdress the issue otherwise they should stay with the vote that was made. Wayne stated, with that said it is not 1977. If it were 1977, guiding versus governing would be a huge issue. Wayne commented Bozeman is going through huge turmoil. We have more people commuting from Butte to Bozeman than Helena. We are opening 275 units of new living in Butte. It is not because there are 275 new jobs in Butte. Butte has a cheaper cost of living. It is cheaper to buy land in Butte and commute to Bozeman. Wayne commented there are out-of-state people coming in to Montana with money and they are being elected as commissioners. Whether we want to guide or govern, Wayne thinks it was a huge issue in 1977. Wayne commented today, they need to be realist and they are 30 years deep into the existing charter. If they go out to the voters with a refined charter and he does not disagree that guidance is the way to go, when the rules are already there for the Council of Commissioners, he thinks tweaking something that has worked over the last 30 years is the answer.

Northey Tretheway asked if Wayne believed a charter that focuses on a structure of Butte and agrees it has worked and everybody wants to see Butte be better but are there other structures that would be even better? Those are the types of questions the commission should be asking. If they brought this before the public and had a narrower focus that would make things easier to explain and create momentum.

Wayne Harper replied you have to explain the changes, which he thinks is a tedious task. He worries that they are changing so drastically they would be as an example, throwing the baby out of the bath water and he does not think there is a lot of bath water that needs to be thrown out. He is for making changes to the existing charter.

Northey Tretheway stated he is not as concerned with the refined charter getting voted down as long as they are doing what they feel is the right thing for the future of Butte. He does not want to be arguing over the operational management of BSB. Those things should be dealt with at the local level.

Tony Bonney commented the probability of voter approval with a brand new charter probably would not pass.



Northey Tretheway asked if it is there to just put something before the voters because they think they will vote on it or put something before the voters that they think is the right thing to do?

Wayne Harper commented even if the people did not vote for a refined charter and they were stuck with the existing charter that contains the “at will” language, it still works.

Cindi Shaw mentioned the reality is they are marketing something. If they feel the refined charter is best for the county then they need to market it. Cindi liked having the combination of both the guiding and the governing.

Ristene Hall sees the government as a business and the people as the boss of that business or the money of that business. Shouldn't they be governing and guiding that?

Northey Tretheway asked isn't the role of the citizens in this community to vote for the Chief Executive and Council Commissioners that affect the government of BSB? That is where the real power comes from. If they had to wait 10 years to resolve a problem, it is not a flexible way of doing it. All they need is a few more “at will” cases or somebody taking legal action against what is in the charter and it takes away the strength and credibility of the charter.

Northey Tretheway stated he has heard from many people that BSB has too many commissioners.

Ristene Hall stated that she has heard that as well. However if they sat in the commissioner's shoes, they would feel different.

Bob Worley stated that he would like it if they did not have to write a Minority Report.

Shag Miller stated he would like to make a motion while all members are present. He would like to make a motion that the Study Commission continue to study tweaking the original charter as they have in the past with the goal of getting it in a form that they take before the voting public. In the meantime, hold in conveyance as an alternative for future consideration again the refined charter.

Ristene Hall seconded.

All were in favor and the motion carried.

Dave Palmer stated the number of concern he hears from the public is regarding the potholes, streets, driveways, dogs and cleaning up Butte.

Northey asked why is that a question for the charter? Why aren't the commissioners addressing it?

Dave Palmer does not think it is the job of the commission but the Chief Executive. He thinks that goals should be set that require the Chief Executive and Council of Commissioners to work more closely together.

Bob Worley mentioned the discussion with Mike Kerns at the Public Hearing regarding the Administrative Code that was drawn up and signed by Mike Kerns, as Acting Chief Executive, and he was not even aware that he had signed it.

***Adjournment:*** Shag Miller moved to adjourn, and Northey Tretheway seconded. All were favor and the motion carried. Meeting adjourned at 7:30 p.m.

***Date of Next Meeting:*** April 13, 2006



